

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

CIVIL CONFERENCE  
MINUTE ORDER

BEFORE: A. KATHLEEN TOMLINSON  
U.S. MAGISTRATE JUDGE

DATE: 9-14-2021  
TIME: 10:03 a.m. (2 minutes)

*Marshall, Jr., et al v. Marine Bulkheading, Inc., et. al.*  
CV 19-4741 (AKT)

TYPE OF CONFERENCE: **SHOW CAUSE HEARING by telephone**

APPEARANCES: Plaintiffs: Tana Forrester (Welton Marshall, Jr., Rayjay James,  
deceased plaintiff John Williams [awaiting action  
in Surrogates' Court re: letters testamentary])

Welton Marshall III -- **NO APPEARANCE**

Defendants: Mark Radi  
Cooper Binsky

FTR through AT&T teleconference line: 10:03-10:05

**THE FOLLOWING RULINGS WERE MADE:**

The Court set today's show cause hearing based on Plaintiff Welton Marshall III's failure to appear at the last conference on August 5, 2021. The law firm previously representing Welton Marshall III had been relieved as counsel of record by the Court and the Court gave Welton Marshall III sixty (60) days to retain new counsel or, in the alternative, to appear himself on August 5 and continue the prosecution of this case as a *pro se* plaintiff. *Id.* New counsel was directed to appear at that conference or, alternatively, Welton Marshall III himself was directed to appear if he intended to proceed on a *pro se* basis and represent himself going forward. *Id.* No one appeared, including Welton Marshall III. As a result, the Court issued the following Order directing Mr. Marshall to appear and informing him of the likely consequences if he did not appear:

**ORDERED, that Plaintiff Welton Marshall III is directed to appear by telephone**  
**before this Court on September 14, 2021 at 10 a.m. and show cause why his case should not**  
**be dismissed based on his failure to prosecute his claims and his failure to comply with the**  
**Orders of this Court. Plaintiff is cautioned that his failure to timely comply with this**  
**Order absent a showing of good cause will result in the dismissal of this case . . .**

DE 88.

Proof of service of the Order was duly filed on ECF. See DE 89

When the case was called this morning, once again neither Welton Marshall III nor any attorney on his behalf appeared for the hearing. In light of these circumstances, the Court has no alternative but dismiss Plaintiff Welton Marshall III's claims in this action. The Clerk of the Court is directed to effectuate this Order.

**Notwithstanding the fact that the Kessler Matura firm has been relieved as counsel for Welton Marshall III, the Court is nonetheless directing the firm to serve a copy of this Civil Conference Order on Welton Marshall III by certified mail and first-class mail and to file proof of such service on ECF by September 23, 2021.**

**SO ORDERED.**

/s/ A. Kathleen Tomlinson  
A. KATHLEEN TOMLINSON  
U.S. Magistrate Judge